

**N.D.A.G. Letter to Patrie (July 25, 1988)**

July 25, 1988

Mr. William S. Patrie  
Director  
North Dakota Economic Development Commission  
Liberty Building  
Bismarck, ND 58505

Dear Mr. Patrie:

Thank you for your letter of March 21, 1988, inquiring whether there is a prohibition against the manufacture of electronic coin operated gaming devices in North Dakota. I am sorry it has taken so long to respond to you.

The statute concerning coin operated gaming devices is N.D.C.C. § 12.1-28-02, which states, in relevant parts, as follows:

12.1-28-02. Gambling -- Related offenses -Classification of offenses. Except as permitted by law:

.....

4. A person is guilty of a class C felony if he engages or participates in the business of gambling. Without limitation, a person shall be deemed to be engaged in the business of gambling if he:

.....

- e. Maintains for use on any place or premises occupied by him a coin-operated gaming device; or

The critical portion of N.D.C.C. § 12.1-28-02(4)(e), in discussing its applicability to the manufacture of electronic coin-operated gaming devices, is the phrase "maintains for use." This prohibition applies where a gaming device is actually found on the premises for use at that location. The manufacture of such devices, on the other hand, does not involve the maintenance of the devices for use on the manufacturer's premises. Thus, the statutory prohibition found at N.D.C.C. § 12.1-28-02(4)(e) does not apply to a situation where a person manufactures electronic coin-operated gaming devices.

As there are no other provisions of North Dakota law which are relevant to this

issue, it is my opinion that North Dakota law does not prohibit the manufacture of electronic coin-operated gaming devices in the state for shipment to other states.

Sincerely,

Nicholas J. Spaeth

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